



7020-02

## INTERNATIONAL TRADE COMMISSION

**Investigation No. 337-TA-878**

### **CERTAIN ELECTRONIC DEVICES HAVING PLACESHIFTING OR DISPLAY REPLICATION AND PRODUCTS CONTAINING SAME**

### **COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL DETERMINATION FINDING THE SOLE REMAINING RESPONDENT TO BE IN DEFAULT; REQUEST FOR WRITTEN SUBMISSIONS ON REMEDY, THE PUBLIC INTEREST, AND BONDING**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (“ID”) (Order No. 11) issued by the presiding administrative law judge (“ALJ”) on July 29, 2013, finding the last remaining respondent in this investigation to be in default. Accordingly, the Commission requests written submissions, under the schedule set forth below, on remedy, public interest, and bonding.

**FOR FURTHER INFORMATION CONTACT:** Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-5468. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at

<http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on April 17, 2013, based on a complaint filed by Sling Media, Inc. ("Sling"). 78 *Fed. Reg.* 22899-900. The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 ("section 337"), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electronic devices having placeshifting or display replication functionality, and products containing same, by reason of infringement of certain claims of U.S. Patent Nos. 7,725,912; 7,877,776; 8,051,454; 8,060,909; 8,266,657; and 8,365,236. The complaint further alleges the existence of a domestic industry. The Commission's notice of investigation named as respondents Belkin International, Inc. ("Belkin"); Monsoon Multimedia, Inc. ("Monsoon"); and C2 Microsystems, Inc. ("C2"). 78 *Fed. Reg.* 22899-900 (Apr. 17, 2013). The Office of Unfair Import Investigations is not participating in this investigation. *Id.*

The Commission terminated the investigation with respect to Belkin based on a settlement agreement, and terminated the investigation with respect to Monsoon based upon default. *See* Order No. 4 (June 5, 2013), *not reviewed* July 5, 2013; *see* Order No. 7 (July 8, 2013), *not reviewed* Aug. 7, 2013.

On June 26, 2013, Sling moved for an order directing C2 to show cause why it should not be found in default for failure to respond to the Complaint and Notice of Investigation, and, upon failure to show cause, for the issuance of an initial determination

finding C2 in default. On July 11, 2013, the ALJ ordered C2 to show cause why it should not be found in default. *See* Order No. 9. No response to Order No. 9 was filed.

On July 29, 2013, the ALJ issued the subject ID finding C2 in default under Commission Rule 210.16(a)(1). *See* Order No. 11. No petitions for review of the ID were filed. The Commission has determined not to review the subject ID.

C2 is the sole remaining respondent in this investigation. Section 337(g)(1) and Commission Rule 210.16(c) authorize the Commission to order relief against a respondent found in default, unless, after considering the public interest, it finds that such relief should not issue. Sling did not file a declaration stating that it was seeking a general exclusion order as provided in Commission Rule 210.16(c)(2).

In connection with the final disposition of this investigation, the Commission may: (1) issue an order that could result in the exclusion of articles manufactured or imported by the defaulting respondents; and/or (2) issue a cease and desist order that could result in the defaulting respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843, Comm'n Op. at 7-10 (December 1994).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors that the Commission will consider include the effect that the exclusion order and/or cease and desists orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See* Presidential Memorandum of July 21, 2005, 70 Fed. Reg. 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

**WRITTEN SUBMISSIONS:** Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Complainant is also requested to submit proposed remedial orders for the Commission's consideration, to state the HTSUS numbers under which the accused products are imported, and to state the dates that the patents expire.

Written submissions and proposed remedial orders must be filed no later than close of business on August 30, 2013. Reply submissions must be filed not later than the

close of business on September 6, 2013. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadline stated above and submit eight true paper copies to the Office of the Secretary pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR § 210.4(f)). Submissions should refer to the investigation number ("Inv. No. 337-TA-878") in a prominent place on the cover page and/or the first page. (*See Handbook for Electronic Filing Procedures*, [http://www.usitc.gov/secretary/fed\\_reg\\_notices/rules/handbook\\_on\\_electronic\\_filing.pdf](http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf)). Persons with questions regarding filing should contact the Secretary (202-205-2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR § 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted nonconfidential version of the document must also be filed simultaneously with any confidential filing. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Lisa R. Barton  
Acting Secretary to the Commission

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